

**REMARKS**

Applicant requests reconsideration and allowance of the present application in view of the foregoing amendments and the following remarks.

Claims 1, 4-8, 11-15, and 18-21 are pending in the present application. Claims 1, 4, 8, 11, 15, 18, 22, and 23 are the independent claims.

Claims 2, 9, 16, 22, and 23 have been cancelled without prejudice to or disclaimer of the subject matter recited therein. Claims 1, 8, and 15 have been amended. No new matter has been added.

Claims 1, 2, 8, 9, 15, 16, 22 and 23 stand rejected under 35 U.S.C. 102(b) as being anticipated by JPA 2000-020975 (Tomohide). All rejections are respectfully traversed.

Independent claim 1 now recites, inter alia, the detection of error information includes: counting a number of times a level of a servo control signal exceeds a reference level within a predetermined period of time; and comparing the counted number of times the level of the servo control signal exceeds the reference level within the predetermined period of time, with an allowable number of level errors.

Independent claims 8 and 15 recite similar features in apparatus and optical recording device including an executable program code forms, respectively.

However, Applicants respectfully submit that Tomohide does not teach at least the aforementioned features of independent claims 1, 8, and 15.

Tomohide relates to an optical disk device and is understood to discuss an arrangement including a tracking error signal generating circuit 21 which generates tracking error signals to a comparator 22. The comparator outputs to a control means 9 shock signals "based on" the tracking error signals. The control means counts the number of pulses of the shock signal and compares the count to a threshold number. (Tomohide, Abstract).

The Office Action contends that the shock signal is "the errors signal" (Office Action, page 2) and compares the shock signal to a servo control signal (Office Action, page 3). However, any contention that the aforementioned features of independent claims 1, 8, and 15 are anticipated by Tomohide is respectfully traversed.

Tomohide expressly teaches counting the number of pulses of the shock signal (a signal based on a tracking error signal) and comparing the number of counted pulses to a reference

number. In contrast, the invention recited in the independent claims counts the number of times a level of the tracking error signal exceeds a reference level. Thus, each pulse, regardless of its level, is counted in Tomohide. Further, the pulses being counted in Tomohide are those of a shock signal, explained to be a signal based on the tracking error signal. Stated another way, Tomohide is silent as to measuring a level of any signal instead measuring all "pulses" of the shock signal. (Office Action, page 3). In contrast, the invention as recited in the independent claims counts the number of times a level of the tracking error signal itself exceeds a reference level.

Accordingly, favorable reconsideration and withdrawal of the rejection of independent claims 1, 8, and 15 under 35 U.S.C. § 102 are respectfully requested.

In view of the foregoing, Applicant respectfully submits that the independent claims patentably define the present invention over the citations of record. Further, the dependent claims should also be allowable for the same reasons as their respective base claims and further due to the additional features that they recite. Separate and individual consideration of the dependent claims is respectfully requested.

Applicant submits that this Amendment After Final Rejection clearly places the subject application in condition for allowance. This Amendment was not earlier presented because Applicants believed that the prior Amendment placed the subject application in condition for allowance. Accordingly, entry of the instant Amendment as an earnest attempt to advance prosecution and reduce the number of issues is requested under 37 C.F.R. § 1.116.

Applicant believes that the present Amendment is responsive to each of the points raised by the Examiner in the Official Action. However, if there are any formal matters remaining after this response, The Examiner is requested to telephone the undersigned to attend to such matters.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.


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If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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